

CLOSED

**New York Southern District
Southern District of New York (Foley Square)
CRIMINAL DOCKET FOR CASE #: 1:99-cr-00885-RWS-ALL
Internal Use Only**

Case title: USA v. Agyekum
Magistrate judge case number: 1:99-mj-01034

Date Filed: 09/09/1999

Assigned to: Judge Robert W.
Sweet

Defendant

Frank Agyekum (1)
TERMINATED: 06/22/2000
aka
"Frank Jones,"
aka
"Frank Adjekum,"
aka
Frank," "Agykem-Boaten
aka
"Lawrence Agyekem,"
aka
"Frank Boateng,"

represented by **George Vallario, Jr.**
Rosenthal, Vallario, Leventhal &
Coffinas
16 Court Street
Brooklyn, NY 11241
(718) 855-2600
TERMINATED: 06/22/2000
LEAD ATTORNEY
Designation: Retained

George H. Vallario
Rosenthal, Vallario & Coffinas
16 Court Street
Brooklyn, NY 11241
(718) 855-2600
TERMINATED: 06/22/2000
LEAD ATTORNEY
Designation: Retained

John Byrnes
Federal Defender Services Unit
Legal Aid Society
52 Duane Street
9th Floor
New York, NY 10007

(212) 417-8735
TERMINATED: 06/22/2000
LEAD ATTORNEY
Designation: Public Defender or
Community Defender
Appointment

Pending Counts

21:841B=ND.F NARCOTICS -
SELL, DISTRIBUTE, OR
DISPENSE-21:841(b)(1)(B)
Distributed and possessed with
intent to distribute heroin.
(1)

Disposition

The defendant is hereby
committed to the custody of the
United States Bureau of Prisons to
be imprisoned for a total of 70
months. Upon release from
imprisonment, the defendant shall
be on supervised release for a
term of 4 years.

**Highest Offense Level
(Opening)**

Felony

Terminated Counts

None

Disposition

**Highest Offense Level
(Terminated)**

None

Complaints

Disposition

		Agyekum held AUSA Cheryl Krause present, Defense Attorneys George Vallario and Paul Madden Present; Frank Agyekum's hearing is adjourned to 6/17/99 at 3:30 and Lawrence Agyekum is detained by consent w/right to revisit [1:99-m -1034] (vb) (Entered: 06/15/1999)
06/15/1999	7	NOTICE of Appearance for Frank Agyekum by Attorney George H. Vallario [1:99-m -1034] (vb) (Entered: 06/15/1999)
07/09/1999	9	ORDER as to Frank Agyekum, Lawrence Agyekum, to Continue in Interests of Justice, continuance granted from 7/9/99 to 8/9/99. (Signed by Magistrate Judge James Francis IV); Copies mailed. [1:99-m -1034] (gq) (Entered: 07/12/1999)
08/09/1999	12	ORDER as to Frank Agyekum, Lawrence Agyekum, to Continue in Interests of Justice extended to 9/8/99 (Signed by Magistrate Judge Henry B. Pitman); Copies mailed. [1:99-m -1034] (vb) (Entered: 08/09/1999)
09/09/1999	14	WAIVER OF INDICTMENT by Frank Agyekum (rag) (Entered: 09/13/1999)
09/09/1999	15	INFORMATION - Felony as to Frank Agyekum (1) count (s) 1 (Preliminary Examination cancelled.) (rag) (Entered: 09/13/1999)
09/09/1999		Arraignment as to Frank Agyekum held Frank Agyekum (1) count(s) 1 before Magistrate Judge Kevin Nathaniel Fox. Deft. present w/atty George Vallario. AUSA: Christopher Morvillo present. Deft. pleads not guilty. Deft. cont'd detained. Case assigned to Judge Sweet. (rag) Modified on 09/13/1999 (Entered: 09/13/1999)
09/09/1999		PLEA entered by Frank Agyekum . Court accepts plea. Not Guilty: Frank Agyekum (1) count(s) 1 (rag) (Entered: 09/13/1999)
09/09/1999		CASE Assigned to Judge Robert W. Sweet (rag) (Entered: 09/13/1999)

09/09/1999		**Excludable XH start as to Frank Agyekum (rag) (Entered: 09/13/1999)
09/09/1999	16	NOTICE of Appearance for Frank Agyekum by Attorney George Vallario. (bw) (Entered: 09/13/1999)
09/13/1999	13	NOTICE of Appearance for Frank Agyekum by Attorney George Vallario Jr. (mr) (Entered: 09/13/1999)
09/13/1999		Pre-Trial Conference as to Frank Agyekum held. Defendant present with attorney George Vallerio. AUSA Cheryl Krause present. Reporter Anne Nemeth present. PTC held. Next PTC 10-18-99 at 9:30 a.m. Time excluded from 9-13-99 to 10-18-99. Defendant continued detained. (Held before Judge Sweet) (bw) (Entered: 09/15/1999)
09/13/1999		ORAL ORDER as to Frank Agyekum . SET pre-trial conference for 9:30 a.m. 10/18/99 for Frank Agyekum. (Entered by Judge Robert W. Sweet) (bw) (Entered: 09/15/1999)
09/13/1999		**Excludable XH starts on 9/13/99 and stops on 9/13/99 as to Frank Agyekum. (bw) (Entered: 09/15/1999)
10/19/1999		Change of Plea Hearing as to Frank Agyekum held. Deft present w/atty George Vallario. AUSA Cheryl Kreaus. Deft plead guilty to ct 1 indictment. PSI ord. Detention continued. Sentence date 2/7/00 at 10:00. Assignend to Sweet, J for all purposes. (before Magistrate Judge Ellis) (sl) (Entered: 10/19/1999)
10/19/1999		Change of Not Guilty Plea to Guilty Plea by Frank Agyekum Frank Agyekum (1) count(s) 1 (sl) (Entered: 10/19/1999)
10/19/1999		PLEA entered by Frank Agyekum . Court accepts plea. Guilty: Frank Agyekum (1) count(s) 1 (sl) (Entered: 10/19/1999)
10/19/1999		Court Orders pre-sentence investigation as to Frank Agyekum (sl) (Entered: 10/19/1999)

10/19/1999	17	CONSENT to Proceed Before A United States Magistrate Judge on a Felony Plea Allocation by Frank Agyekum. (Accepted on 10/19/99 by Magistrate Judge Ronald L. Ellis) (bw) (Entered: 10/20/1999)
01/31/2000		ORAL ORDER as to Frank Agyekum , reset Sentencing for 9:30 2/10/00 for Frank Agyekum (Entered by Judge Robert W. Sweet) (sl) (Entered: 02/02/2000)
02/02/2000		ORAL ORDER as to Frank Agyekum , Reset Sentencing for 4:00 2/16/00 for Frank Agyekum. The Court adjourned the sentence from 2/10/00 to 2/16/00 at 4 p.m. Parties are notified. Deft. cont'd detained. (Entered by Judge Robert W. Sweet) (rag) (Entered: 02/03/2000)
02/16/2000	18	SENTENCING OPINION # 83495 as to Frank Agyekum, sentenced to 46 months imprisonment followed by 4 years supervised release. Special assessment of \$100. This sentence is subject to further hearing on 2/16/00 (Signed by Judge Robert W. Sweet); Copies mailed. (sl) (Entered: 02/16/2000)
02/16/2000		ORAL ORDER as to Frank Agyekum . The Court adjourned the sentence pursuant to the Govt's letter dated 2/15/00. The sentence is set for 3/28/00 at 9:30 a.m. Parties are notified. Deft continued detained. (Entered by Judge Robert W. Sweet) (bw) (Entered: 02/18/2000)
02/16/2000		ORAL ORDER as to Frank Agyekum , reset Sentencing for 9:30 4/10/00 for Frank Agyekum (Entered by Judge Robert W. Sweet) (mb) (Entered: 02/18/2000)
02/17/2000	19	Filed Memo-Endorsement on letter dated 2/15/00 to Judge Sweet from Cheryl Krause, AUSA as to Frank Agyekum. Re: An adjournment of the sentencing until the week of 3/27. Application granted. reset Sentencing for 3/28/00 for Frank Agyekum (Signed by Judge Robert W. Sweet); Copies mailed. (mb) (Entered: 02/18/2000)
03/07/2000	20	TRANSCRIPT of record of proceedings before Judge Robert W. Sweet as to Frank Agyekum for date of 9/13/99 9:30 a.m. (bw) (Entered: 03/07/2000)

03/27/2000		ORAL ORDER as to Frank Agyekum , Reset Sentencing for 9:30 4/11/00 for Frank Agyekum. Parties are notified. Deft. cont'd on bail as set (Entered by Judge Robert W. Sweet) (rag) (Entered: 03/29/2000)
04/14/2000	21	Filed Memo-Endorsement on letter to Judge Sweet dtd. 4/7/00 from AUSA Cheryl A. Krause as to Frank Agyekum, The Government's request for a new sentencing date towards the end of June 2000 is granted. (Signed by Judge Robert W. Sweet); Copies mailed. (rag) (Entered: 04/17/2000)
05/03/2000		ORAL ORDER as to Frank Agyekum , set Sentencing for 9:30 6/12/00 for Frank Agyekum. The parties are notified. Defendant continued on bail as previously set. (Entered by Judge Robert W. Sweet) (mr) (Entered: 05/09/2000)
06/07/2000		ORAL ORDER as to Frank Agyekum . Sentence is set for 6/22/00 at 9:30 a.m. Parties notified. Defendant continued on bail as set. (Entered by Judge Robert W. Sweet) (bw) (Entered: 06/08/2000)
06/08/2000	22	Filed Memo-Endorsement on letter addressed to Judge Sweet from AUSA Cheryl A. Krause, dated 6/5/00, as to deft Frank Agyekum. The Gov't requests an adjournment of the scheduled sentencing in this matter until 6/22/00; Judge "So Ordered" request. (Signed on 6/6/00 by Judge Robert W. Sweet); Copies mailed. (bw) (Entered: 06/08/2000)
06/22/2000		Sentencing held Frank Agyekum (1) count(s) 1 (rag) (Entered: 06/26/2000)
06/22/2000	23	FILED JUDGMENT IN A CRIMINAL CASE. The defendant Frank Agyekum (1) present with attorney Louis Rosenthal. The defendant pleaded guilty to count one. The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984. It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment

		are fully paid. The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total of 70 months. The defendant is remanded to the custody of the United States Marshal. Upon release from imprisonment, the defendant shall be on supervised release for a term of 4 years. 1. Refrain from any unlawful use of a controlled substance. Submit to one durg test within 15 days of placement on supervised release, and at least 2 unscheduled drug tests thereafter. 3. Supervision shall be by the district of his residence. The defendant shall not possess a firearm as defined in 18 U.S.C. Section 921. The defendant shall pay a \$100.00 assessment which shall be due in full immediately. ; Judgment and Commitment issued to U.S. Marshal (Signed by Judge Robert W. Sweet). Docketed as a Judgment #00,1499 on 6/27/00. (rag) Modified on 06/27/2000 (Entered: 06/26/2000)
06/22/2000		**Terminated party Frank Agyekum (rag) (Entered: 06/26/2000)
06/22/2000		**Case closed as to all defendants: Frank Agyekum (rag) (Entered: 06/26/2000)
07/07/2000	25	NOTICE OF APPEAL by Frank Agyekum Frank Agyekum (1) count(s) 1 CJA granted 6/10/99. (sl) (Entered: 07/28/2000)
07/14/2000	24	AMENDED SENTENCING OPINION # 83495 as to Frank Agyekum. Dft. Agyekum plead guilty on 10/19/99 to distribution and possession with intent to distribute heroin, a class B felony in violation of 21 U.S.C. SS 812, 841 (a) (1) (b). For the reasons set forth below, a sentence of 70 months incarceration will be imposed, to be followed by a four-year term of supervised release. Agyekum will be required to pay a fine, but shall pay the mandatory special assessment of \$100.00. This amended sentencing opinion reflects the sentence imposed at the sentencing hearing held on 6/22/00. (Signed by Judge Robert W. Sweet) . (mb) (Entered: 07/17/2000)
07/28/2000		Notice of Appeal with copy of order/judgment and two copies of docket entries as to Frank Agyekum transmitted

		to USCA re: [25-1] appeal on 7/28/00 (sl) (Entered: 07/28/2000)
10/10/2000		USCA Case Number as to Frank Agyekum Re: [25-1] appeal USCA NUMBER: 00-1534. (dt) (Entered: 10/10/2000)
10/11/2000		by Frank Agyekum, \$105.00 Appeal filing fee paid 10/11/00 on receipt # E 387008. (dt) (Entered: 10/12/2000)
10/18/2000	26	File notice that the record on appeal as to Frank Agyekum has been certified and transmitted to USCA on 10/17/00 [25-1] appeal. (dt) (Entered: 10/18/2000)
10/25/2000		Payment of Fine by Frank Agyekum in the amount of \$100.00: Date Received: 10/24/2000. (cde) (Entered: 10/25/2000)
11/13/2000	27	TRANSCRIPT of record of proceedings as to Frank Agyekum for dates of 6/22/00. (cd) (Entered: 11/13/2000)
03/06/2001	28	MANDATE OF USCA (certified copy) as to Frank Agyekum Re: [25-1] appeal (USCA no. 00-1534); On Notice of Motion by USA for Summary Affirmance of Judgment of Conviction, IT IS HEREBY ORDERED that the motion be and it hereby is GRANTED. [Issued as Mandate: 2/26/01] (bw) (Entered: 03/06/2001)
03/06/2001		**Procedural Interval start P6 as to Frank Agyekum (1) count(s) 1. [refer to Mandate, doc.#28] (bw) (Entered: 03/06/2001)
03/06/2001		**Remove appeal flag - no further appeals pending (bw) (Entered: 03/06/2001)
04/24/2001	29	CJA 23 Financial Affidavit as to Frank Agyekum : (Signed by Magistrate Judge Andrew J. Peck) (mr) (Entered: 04/25/2001)
06/26/2001		MOTION by Frank Agyekum to vacate under 28 U.S.C. 2255 Refer to 01 civ 5808 (ac) Modified on 07/16/2001 (Entered: 06/27/2001)

07/13/2001	30	ORDER as to Frank Agyekum, Petitioner Frank Agyekum has filed this action pursuant to 28 USC 2255 for a writ of habeas corpus. I have preliminarily considered the petition and I direct that the respondent file an answer or motion within forty (40) days of the date of this order. The clerk of the court is directed to serve, by certified mail return receipt requested, a copy of this order and the underlying petition on respondent, the US Attorney for the SDNY...So Ordered. (Signed by Judge Robert W. Sweet); Copies mailed. See 01 Civ 5808. Mailed out by certified mail #7099 3400 0014 3066 2851 on 7/16/01. Received in the U.S. Attorney's Office by Lisa Ahearn on 7/18/01. (rag) Modified on 07/24/2001 (Entered: 07/16/2001)
08/13/2001	31	Filed Memo-Endorsement on letter dated 08/03/01 from AUSA Cheryl Krause to Judge Sweet as to Frank Agyekum, reset scheduling order deadlines: Response to motion deadline 9/21/01 for USA ; ...So Ordered. (Signed by Judge Robert W. Sweet); Copies mailed. (ac) (Entered: 08/14/2001)
10/01/2001	32	Filed Memo-Endorsement on letter dated 9/24/01, as to Frank Agyekum, from: Cheryl A. Krause, AUSA, to: Judge Sweet, re: extending time for the Government to file its response to Frank Agyekum's petition filed under 28 U.S.C., Sec. 2255. The Government requests an adjournment of the filing of its response until 12/10/01 in order to obtain the closed file and prepare its response. SO ORDERED. (Signed by Judge Robert W. Sweet); Copies mailed. (ja) (Entered: 10/01/2001)
11/01/2001	33	Filed Memo-Endorsement on letter to Judge Sweet dated 10/17/01 from Frank Agyekum as to Frank Agyekum, requesting a recommendation for enrollment in the 500 hour drug and alchohol abuse program being hosted by the Federal Bureau of Prisons...I recommend the requested enrollment. (Signed by Judge Robert W. Sweet); Copies mailed. (ph) (Entered: 11/01/2001)
12/12/2001	34	Filed Memo-Endorsement on letter to Judge Sweet dated 12/7/01 from Cheryl A. Krause as to Frank Agyekum, requesting an extension of time to 1/31/02 in order to file its

		response to the defendant, Frank Agyekum's 2255 petition...SO ORDERED. (Signed by Judge Robert W. Sweet); Copies mailed. (ph) (Entered: 12/13/2001)
05/20/2002	35	MEMORANDUM OPINION # 86963 as to Frank Agyekum denying [0-1] motion to vacate under 28 U.S.C. 2255 as to Frank Agyekum (1) (Signed by Judge Robert W. Sweet); Copies mailed. (ja) (Entered: 05/21/2002)
05/20/2002	36	LETTER filed by USA as to Frank Agyekum, From Cheryl A. Krause, Dated 1/31/01, Addressed to: Judge Sweet, Re: responding to defendant's petition filed under 28 U.S.C., Sec. 2255. In his petition, Agyekum argues that his sentence at the bottom of the 70 to 87 month range to which he stipulated in his plea agreement should be reduced because his former counsel provided him w/ineffective assistance of ocunsel. Specifically Agyekum alleges that he entered his plea and proceeded to sentencing based on erroneous advice that he would receive a sentence lower than the 70-month sentence imposed by the Court. ..., these claims are flatly contradicted by Agyekum's sworn statements at his plea and the express terms of his plea agreement. Accordingly, the petition should be dismissed or in the alternative denied. (ja) (Entered: 05/21/2002)
06/11/2002	37	NOTICE OF APPEAL by Frank Agyekum , Frank Agyekum (1) count(s) 1. , [35-1] order . Copies of notice of appeal mailed to Attorney(s) of Record: A.U.S.A. (I.F.P. REVOKED 5/21/02) (\$105.00 APPEAL FILING FEE DUE). (dt) (Entered: 08/15/2002)
08/15/2002		Notice of Appeal with copy of order/judgment and two copies of docket entries as to Frank Agyekum transmitted to USCA re: [37-1] appeal on 8/15/02. (dt) (Entered: 08/15/2002)
08/16/2002	38	File notice that the record on appeal as to Frank Agyekum has been certified and transmitted to USCA on 8/16/02 [37-1] appeal. (dt) (Entered: 08/16/2002)
08/16/2002		by Frank Agyekum, Indexed record on appeal files sent to the U.S.C.A. (dt) (Entered: 08/16/2002)

10/01/2002	39	MANDATE OF USCA (certified copy) as to Frank Agyekum Re: [37-1] appeal; USCA no. 02-2513; The Civil Appeal Management Plan of this Court Directs that within ten (10) days after filing a Notice of Appeal, the Appellant shall, inter alia, either pay the docketing fee or move for leave to proceed in forma pauperis, and that in the event of default of this requirement, the Clerk may dismiss the appeal without further notice. The Appellant herein not having so proceeded, upon consideration thereof, it is ordered that the appeal from the order of June 11, 2002 of the U.S.D.C. for the S.D.N.Y. be and it hereby is dismissed. [Certified: 9/23/02] (bw) (Entered: 10/03/2002)
10/01/2002		**Procedural Interval start P6 as to Frank Agyekum (1) count(s) 1. [refer to Mandate, doc.#39] (bw) (Entered: 10/03/2002)
10/01/2002		**Remove appeal flag - no further appeals pending (bw) (Entered: 10/03/2002)
02/21/2003	40	True Copy of Order from USCA as to Frank Agyekum Re: USCA No. 02-2513; Appellant moves, pro se, for a certificate of appealability, in forma pauperis status and reinstatement of his appeal from the district court order denying his 28 U.S.C. Section 2255 motion. Upon due consideration, it is ORDERED that the motions are denied. The appellant has not made a "substantial showing of the denial of a constitutional right." 28 U.S.C. Section 2253(c). [Certified: 2/13/03] (bw) (Entered: 02/21/2003)
05/27/2003		Indexed record on appeal files (02-2513) returned by the USCA. Appeal by Frank Agyekum (pr) (Entered: 05/27/2003)
11/16/2004	41	TRANSFER OUT SUPERVISED RELEASE DOCUMENTS SENT as to Frank Agyekum to the U.S.D.C. District of Massachusetts. The following documents were mailed: Copy of the Transfer of Jurisdiction Form, certified copy of the indictment/information, certified copy of the docket sheet, and letter of acknowledgment. Mailed via Federal Express AIRBILL # 846736645186 on 11/16/04. (jw,) (Entered: 11/16/2004)

		11/19/2004)
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